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9 **BEFORE THE**
RESPIRATORY CARE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 1H-2011-277

12 **HOLLY RAYMAN-HART, R.C.P.**
13 **1588 San Bernardino Place**
14 **Costa Mesa, CA 92627-3260**

A C C U S A T I O N

15 **Respiratory Care Practitioner**
16 **License No. 3397**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Respiratory Care Board of California, Department of
22 Consumer Affairs.

23 2. On or about May 31, 1985, the Respiratory Care Board issued Respiratory Care
24 Practitioner License Number 3397 to HOLLY RAYMAN-HART, R.C.P. (Respondent). The
25 Respiratory Care Practitioner License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on June 30, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: "The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act]."

5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter."

6. Section 3750 of the Code states:

"The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

"...

"(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

"...

"(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

"...

"(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

"...

1 7. Section 3750.5 of the Code states:

2 "In addition to any other grounds specified in this chapter, the board may deny,
3 suspend, place on probation, or revoke the license of any applicant or license holder
4 who has done any of the following:

5 "(a) Obtained, possessed, used, or administered to himself or herself in
6 violation of law, or furnished or administered to another, any controlled substances as
7 defined in Division 10 (commencing with Section 11000) of the Health and Safety
8 Code, or any dangerous drug as defined in Article 2 (commencing with Section 4015)
9 of Chapter 9, except as directed by a licensed physician and surgeon, dentist,
10 podiatrist, or other authorized health care provider.

11 "(b) Used any controlled substance as defined in Division 10 (commencing
12 with Section 11000) of the Health and Safety Code, or any dangerous drug as defined
13 in Article 2 (commencing with section 4015) of Chapter 9 of this code, or alcoholic
14 beverages, to an extent or in a manner dangerous or injurious to himself or herself, or
15 to others, or that impaired his or her ability to conduct with safety the practice
16 authorized by his or her license."

17 8. Section 3752 of the Code states:

18 "A plea or verdict of guilty or a conviction following a plea of nolo contendere
19 made to a charge of any offense which substantially relates to the qualifications,
20 functions, or duties of a respiratory care practitioner is deemed to be a conviction
21 within the meaning of this article. The board shall order the license suspended or
22 revoked, or may decline to issue a license, when the time for appeal has elapsed, or
23 the judgment of conviction has been affirmed on appeal or when an order granting
24 probation is made suspending the imposition of sentence, irrespective of a subsequent
25 order under Section 1203.4 of the Penal Code allowing the person to withdraw his or
26 her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
27 guilty, or dismissing the accusation, information, or indictment."

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1 9. Section 492 of the Code states:

2 “Notwithstanding any other provision of law, successful completion of any
3 diversion program under the Penal Code, or successful completion of an alcohol and
4 drug problem assessment program under Article 5 (commencing with Section
5 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
6 agency established under Division 2 (commencing with Section 500) of this code, or
7 any initiative act referred to in that division, from taking disciplinary action against a
8 licensee or from denying a license for professional conduct, notwithstanding that
9 evidence of that misconduct may be recorded in a record pertaining to an arrest.”

10 10. California Code of Regulations, title 16, section 1399.370, states:

11 "For the purposes of denial, suspension, or revocation of a license, a crime or
12 act shall be considered to be substantially related to the qualifications, functions or
13 duties of a respiratory care practitioner, if it evidences present or potential unfitness
14 of a licensee to perform the functions authorized by his or her license or in a manner
15 inconsistent with the public health, safety, or welfare. Such crimes or acts shall
16 include but not be limited to those involving the following:

17 "(a) Violating or attempting to violate, directly or indirectly, or assisting or
18 abetting the violation of or conspiring to violate any provision or term of the Act.

19 "..."

20 **COST RECOVERY**

21 11. Section 3753.5, subdivision (a) of the Code states:

22 "In any order issued in resolution of a disciplinary proceeding before the board,
23 the board or the administrative law judge may direct any practitioner or applicant
24 found to have committed a violation or violations of law or any term and condition of
25 board probation to pay to the board a sum not to exceed the costs of the investigation
26 and prosecution of the case. A certified copy of the actual costs, or a good faith
27 estimate of costs where actual costs are not available, signed by the official custodian

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1 of the record or his or her designated representative shall be prima facie evidence of the
2 actual costs of the investigation and prosecution of the case."

3 12. Section 3753.7 of the Code states:

4 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
5 include attorney general or other prosecuting attorney fees, expert witness fees, and
6 other administrative, filing, and service fees."

7 13. Section 3753.1 of the Code states:

8 "(a) An administrative disciplinary decision imposing terms of probation may
9 include, among other things, a requirement that the licensee-probationer pay the
10 monetary costs associated with monitoring the probation. "

11 **FIRST CAUSE FOR DISCIPLINE**

12 (Conviction of a Crime)

13 14. Respondent is subject to disciplinary action under section 3750, as defined by
14 3750, subdivision (d), 3752, of the Code, and Title 16 of the California Code of Regulations,
15 section 1399.370, subdivisions (a) and (c), in that Respondent has been convicted of a crime
16 substantially related to the qualifications, functions, or duties of a respiratory care practitioner.
17 The circumstances are as follows:

18 **2010 Conviction**

19 A. On or about October 7, 2010, in the Superior Court, County of Orange, Harbor
20 Justice Center, Newport Beach Facility, in the case *People of the State of California v. Holly*
21 *Rayman-Hart*, Case No. 10HM06075, Respondent was convicted on her own guilty plea, of one
22 count of possession of controlled substance paraphernalia (opium pipe or device, contrivance,
23 instrument or paraphernalia used for unlawfully injecting or smoking a controlled substance) in
24 violation of Health and Safety Code section 11364.

25 As a consequent of the conviction, Respondent was ordered to serve 2 days in county
26 jail (with credit for time served) and ordered to pay fines.

27 B. The circumstances of the conviction are as follows: On or about July 24, 2010,
28 respondent was driving her vehicle when a Newport Beach Police Officer pulled her over for

1 failing to make a full stop. Upon contact with Respondent, the officer observed blood around
2 Respondent's neck, hands and her thumbnails were bleeding¹. The officer observed an orange
3 syringe cap on the driver's seat of the vehicle. The officer also found a methamphetamine pipe
4 with burnt residue on the front passenger seat, a broken methamphetamine pipe in Respondent's
5 purse, and eight additional hypodermic syringes in the interior of the vehicle. During a search of
6 the vehicle, blister packs of Modalert², a bent spoon with burnt residue, and vials of Sermorelin³
7 and Cyanocobalamin⁴ were found. Also, a white plastic straw and a small clear plastic baggie
8 containing residue were found on Respondent's person. Respondent was subsequently arrested.

9 C. On or about August 19, 2010, the District Attorney for the County of Orange,
10 filed a criminal complaint charging Respondent with one count of possession of controlled
11 substance paraphernalia in violation of Health and Safety Code section 11364 [Count 1], and one
12 misdemeanor count of unauthorized possession of a hypodermic needle or syringe, a
13 misdemeanor, in violation of Business and Professions Code section 4140 [Count 2]. Following
14 Respondent's guilty pleas, the District Attorney dismissed Count 2 of the criminal complaint.

15 2008 Conviction

16 D. On or about October 10, 2008, in the Superior Court, County of Orange,
17 Harbor Justice Center, Newport Beach Facility, in the case *People of the State of California*
18 *v. Holly Raymanhart*, Case No. 08HF0112, Respondent was convicted on her own guilty
19 plea, of one count of possession of methadone,⁵ a controlled substance, in violation of
20 Health and Safety Code section 11350(a) [Count 1], and one count of possession of
21 methamphetamine, a controlled substance, in violation of Health and Safety Code section
22 11377(a) [Count 2].

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24
25 ¹ Narcotic abusers inject narcotics via syringes into their toes or fingernails.

26 ² Modalert is a Schedule IV of the Health and Safety Code, a controlled substance
stimulant.

27 ³ Sermorelin is a prescription drug used in growth hormone therapy.

28 ⁴ Cyanocobalamin is used as an appetite suppressant. No prescription is necessary.

⁵ Methadone is a Schedule II of the Health and Safety Code, a controlled substance used
for pain management and addiction treatment.

1 As a consequence of the conviction, entry of judgment was deferred and
2 Respondent was ordered to enroll in a Drug Program pursuant to Penal Code section 1000.

3 On or about July 7, 2010, the Court found Respondent successfully completed a
4 Drug Program pursuant to Penal Code section 1000. The plea was ordered withdrawn and
5 the judgment vacated, and Counts 1 and 2 were dismissed.

6 E. The circumstances of the conviction are as follows: On or about October 22,
7 2007, Respondent was driving her vehicle at a high rate of speed when she failed to stop behind
8 the line of a stop sign. She was stopped by a Newport Beach Police Officer (officer). Upon
9 contact, Respondent told the officer she was coming from a hotel in Costa Mesa while visiting a
10 friend. Respondent appeared to be very excited and anxious and had a difficult time sitting still. .
11 Inside Respondent's purse, the officer found four different varieties of pills inside a prescription
12 bottle. An additional pill bottle was located inside Respondent's purse which had a valid
13 prescription for Vicodin and another white pill bottle labeled "Phenterprin". Inside the bottle
14 were several white/blue capsules and a small clear plastic zip-lock bag. Inside the plastic bag was
15 a usable quantity of a crystalline substance which was identified as methamphetamine.
16 Respondent was subsequently arrested for violating Health and Safety Code section 11377,
17 subdivision (a).

18 F. On or about January 17, 2008, the District Attorney for the County of
19 Orange, filed a criminal complaint charging Respondent with one count of possession of a
20 controlled substance in violation of Health and Safety Code section 11350(a), and one
21 count of possession of a controlled substance in violation of Health and Safety Code section
22 11377 (a).

23 **SECOND CAUSE FOR DISCIPLINE**

24 (Possession of a Controlled Substance)

25 15. Respondent is further subject to disciplinary action under section 3750.5, as
26 defined by 3750.5, subdivision (a), in that she possessed a controlled substance, as more
27 particularly described in paragraph 14, above, which is incorporated by reference and realleged as
28 if fully set forth herein.

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Used a Controlled Substance or Alcoholic Beverages in a Manner Dangerous or Injurious to
3 Himself, Herself or Others)

4 16. Respondent is further subject to disciplinary action under section 3750.5, as
5 defined by 3750.5, subdivision (b), in that she used a controlled substance in a manner dangerous
6 or injurious to herself, as more particularly described in paragraph below:

7 A. On or about April 7, 2011, a Costa Mesa Police Officer stopped Respondent for
8 traffic violations. Upon contact with Respondent, the officer observed that her eyes were
9 extremely red and watery but did not smell of alcohol. Respondent was extremely talkative and
10 fidgety. Respondent swayed "heavily in a circular motion" during the Horizontal Gaze
11 Nystagmus test, and her eyes and her pupils did not react to light. Respondent's pulse rate was
12 recorded at 110 beats per minute at 2117 hours, at 110 beat per minute at 2128 hours and at 108
13 beats per minute at 2134 hours⁶.

14 B. Respondent admitted she had used memthamphetamine in the past and had been
15 convicted for possession of drug paraphernalia. During field sobriety tests, Respondent swayed
16 and had rapid eye flutter. During the Finger-to-Nose test, Respondent nearly poked her left eye.
17 The officer noticed a milky white film on her tongue and heat bumps towards the back of her
18 tongue which is consistent with someone who had recently smoked an illegal drug. Because of
19 the objective symptoms of being under the influence of alcohol/drugs, Respondent was arrested
20 for violating Vehicle Code section 23152, subdivision (a).

21 C. As of July 22, 2011, the District Attorney's Office had not filed a complaint.

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28 ⁶ A normal person's pulse rate measures between 50 and 90 beats per minute.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Commission of Any Fraudulent, Dishonest or Corrupt Act)

3 17. Respondent is further subject to disciplinary action under section 3750, as
4 defined by 3750, subdivision (j), in that she committed a dishonest act in that she failed to
5 disclose the October 10, 2008, conviction on her license renewal application dated June 6, 2010.
6 The circumstances are as follows:

7 A. On or about June 6, 2010, respondent signed her license renewal application
8 under penalty of perjury. On the license renewal, Respondent answered “No” to the following
9 question: “Since you last renewed your license, have you been convicted of, diverted for, or pled
10 guilty or nolo contendere/no contest to any violation of any law of any state, the United States or
11 a foreign country?” This is false because on October 10, 2008, Respondent was convicted on her
12 own guilty plea as more particularly alleged in paragraph 14D, above, which is incorporated
13 herein by reference and realleged as if fully set forth herein.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 (Violation of Any Provision)

16 18. Respondent is further subject to disciplinary action under section 3750, as
17 defined by 3750, subdivision (g), of the Code and Title 16 of the California Code of Regulations
18 section 1399.370, subdivision (a), in that she violated a provision of the chapter, in that she was
19 convicted of a crime substantially related to the qualifications, functions, or duties of a respiratory
20 care practitioner, as more particularly described in paragraph 14 above, which is incorporated
21 herein by reference and realleged as if fully set forth herein.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein
24 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

25 1. Revoking or suspending Respiratory Care Practitioner License Number 3397,
26 issued to Holly Rayman-Hart, R.C.P.

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1 2. Ordering Holly Rayman-Hart, R.C.P. to pay the Respiratory Care Board the
2 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
3 probation monitoring;

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: September 23, 2011

Original signed by Liane Freels for:

STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant

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